

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MASAKI HIROSE

Appeal No. 97-2903
Application No. 08/492,643¹

ON BRIEF

Before URYNOWICZ, HAIRSTON and KRASS, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 18 through 34.

The disclosed invention relates to a method and apparatus for transmitting and receiving data via satellite.

¹ Application for patent filed June 20, 1995.

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Claim 18 is illustrative of the claimed invention, and it reads as follows:

18. A data transmitting apparatus for transmitting predetermined data, comprising:

partial scramble means for scrambling a selected portion of the predetermined data using a first key;

entire scramble means for entirely scrambling all of the predetermined data, using a second key, after the selected portion has been scrambled;

sending means for transmitting the entirely scrambled predetermined data via a first transmission path; and

means for sending the first key via a second transmission path.

Claims 18 through 34 stand rejected under the second paragraph of 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which appellant regards as the invention.

Reference is made to the final rejection, the briefs and the answer for the respective positions of the appellant and the examiner.

OPINION

The indefiniteness rejection is reversed.

The examiner indicates (final rejection, page 2) that the uses of "partial scramble means," "entire scramble means,"

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"partial descramble means," "entire descramble means,"
"scramble

processing" and "descramble processing" have rendered claims 18 through 34 indefinite and unclear because "partial," "scramble" and "descramble" are not recited as "portion," "scrambling" and descrambling," respectively. The examiner additionally states (final rejection, pages 2 and 3) that the uses of "encode" and "decode" have rendered the claims indefinite because "scrambling" and "descrambling" are performed, and not "encoding" and "decoding."

We agree with appellant's argument (Brief, pages 4 and 5) that it is perfectly acceptable to recite "scramble" and "descramble" without an "ing" ending. The two terms are used throughout appellant's disclosure, and the skilled artisan would not have any trouble understanding what is meant by the two terms when they are considered in light of that disclosure. The same holds true for appellant's use of "partial" instead of "portion" as suggested by the examiner. We also agree with appellant's argument (Brief, pages 4 and 5) that he has the right to be his own lexicographer, particularly where no reason has been provided for finding appellant's chosen terms indefinite.

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Appellant argues (Brief, page 6) that the terms "encode" and "decode" are synonymously referred to as "scramble" and "descramble." We agree. The terms are now interchangeably used in the art,² and appellant's disclosure makes clear that the terms are interchangeably used to refer to the same process.

² The attached excerpts from several electronics dictionaries buttress appellant's conclusion that the terms are now interchangeable terms.

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Based upon the foregoing, the claims are not indefinite.
Accordingly, the rejection of claims 18 through 34 under the
second paragraph of 35 U.S.C. § 112 is reversed.

DECISION

The decision of the examiner rejecting claims 18 through
34 under the second paragraph of 35 U.S.C. § 112 is reversed.

REVERSED

STANLEY M. URYNOWICZ, Jr.)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
KENNETH W. HAIRSTON)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
)	
ERROL A. KRASS)	
Administrative Patent Judge)	

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Serial No. 08/492,643

Judge HAIRSTON

Judge KRASS

Judge URYNOWICZ

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DECISION: REVERSED

Send Reference(s): Yes No
or Translation(s)

Panel Change: Yes No

3-Person Conf. Yes No

Remanded: Yes No

Brief or Heard

Group Art Unit: 2202

Index Sheet-2901 Rejection(s):

Acts 2: _____

Palm: _____

Mailed:

Updated Monthly Disk (FOIA): _____

Updated Monthly Report: _____